

REMARKS

The Office Action of December 15, 2006 has been reviewed and the comments therein were carefully considered. Claims 1-53 are pending in the application. Claims 1-53 are rejected.

Claim Objections

Claims 1, 38 and 53 are objected to because of informalities. The Examiner states that the recitation "such that the image files may subsequently be searched based upon the metadata" seems to be optionally recited. Applicants have amended Claims 1, 38 and 53 to recite that the image files can be subsequently searched based on the metadata, to clarify the feature of enabling the ability to search based upon the metadata.

Applicants have also amended Claims 1 and 14 to clarify the scope of the invention, and have also amended Claim 48 to fix a grammar error.

Claim Rejections - 35 USC §101

Claims 48-52 are rejected under 35 USC §101, because the claimed invention is directed to non-statutory matter. Applicants traverse this rejection.

The Examiner states that "machine-readable medium" are not statutory subject matter, and refers to the description in MPEP § 2106 regarding data structures. Applicants respectfully note that Claims 48-52 are not reciting data structures, but are reciting steps to be performed, in other words, method claims. Accordingly Applicants assert that these claims are directed towards statutory subject matter.

Indeed, MPEP § 2106.01 expressly recognizes the permissibility of claims such as Claims 48-52:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component....

.... When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.....

Applicants assert that Claims 48-52 clearly recite functional descriptive material recorded on a computer-readable medium.

Claim Rejections - 35 USC §102

Claims 1-9, 13, 14, 38-43, and 47 are rejected under 35 U.S.C. §102(b) as being anticipated by Wilcock et al. (US Application: US 2001/0015756 A1). Applicants traverse this rejection.

The Examiner states that Wilcock discloses “wirelessly transmitting the image files and assigned metadata from the imaging device for storage on a second device such that the image files may subsequently be searched based upon the metadata” and refers to paragraphs 0038 and 0158. Applicants respectfully disagree. Wilcock does not disclose that the image files may subsequently be search based on the metadata, either at paragraphs 0038 or 0158. At paragraph 0038, Wilcock discloses storing the photos in a photo store, and photo meta-data [sic] in a meta-data database, but there is no disclosure of being able to search the metadata. At paragraph 0158 Wilcock discloses a different embodiment of the invention, but does not disclose or suggest anything regarding metadata. Applicants assert that Wilcock does not disclose “the image files can [as amended] subsequently be searched based upon the metadata”, wherein “the metadata categorizing each image according to at least two schemes”.

Accordingly, Applicants assert that Wilcock does not disclose each and every feature of the invention as recited in Independent Claims 1, 14. or 38, and those claims and all claims dependent upon them are allowable.

Further, with regard to Claim 5, the Examiner states that Wilcock et al teaches “wherein at least one of the schemes is one or more subjects shown in an image” and refers to paragraphs 0055, and 0056, in that “a first subject comprises description metadata being shown in the image,

and a second subject comprises semantic location metadata being shown in the image.” Applicants respectfully disagree. Wilcock at paragraphs 0055 merely discloses “a user-provided description of the photo”; and does not mention “one or more subjects shown in an image”. Applicants assert that Wilcock does not disclose or make obvious the specific requirements as recited by this claim. Applicants assert that Claims 7, 40 and 42 are allowable for the same reason.

With regard to Claim 9, the Examiner states that “Wilcock et al teaches further comprising: receiving a designation of at least one image as personal and at least one image as shared, wherein the image file for the at least one personal image is only accessible with a password and the image file for the at least one shared image is accessible without the password” and refers to Paragraph 0096, “whereas a user’s photos can be optionally password protected.” Applicants respectfully disagree. Wilcock merely discloses that *access* to a user’s photos can be password protected. Wilcock does not disclose password protection for individual images. Wilcock describes password protection as all or nothing, and does not disclose that at least one image is designated as personal and at least one image is designated as shared.

With regard to Independent Claim 14, the Examiner states that Wilcock discloses “the images are stored in a database at the memory, the database including at least one virtual folder corresponding to each of the at least two metadata schemes” and refers to Fig 3 and paragraphs 0038, 0052, and 0053, “whereas, when the images are stored in a database in memory, they include at least one virtual folder corresponding to a collective date, and location schema.” Applicants respectfully disagree. Wilcock makes no disclosure to any type of virtual folder, and further Wilcock makes no disclosure of at least one virtual folder corresponding to each of the at least two metadata schemes. Therefore, Applicants assert that Claim 14 and all claims dependent upon it are allowable.

Claim Rejections - 35 USC §103

Claims 10-12 and 44-46 are rejected under 35 USC §103(a) as being unpatentable over Wilcock et al. (US Application: US 2001/0015756 A1), in further view of Stubler et al. US

Application: 2002/0188602 A1). Applicants traverse this rejection. All these claims depend from allowable independent claims, and are therefore allowable.

Claims 15-23, 25-27, 29-32, 34-37 and 48-52 are rejected under 35 USC §103(a) as being unpatentable over Wilcock et al. (US Application: US 2001/0015756 A1), in further view of Rothmuller et al. (US Application: 2003/0033296 A1). Applicants traverse this rejection. All these claims (except for Independent Claim 48) depend from allowable independent claims, and are therefore allowable. Regarding Independent Claim 48, this claim is allowable for the same reasons that Independent Claim 14 is allowable, as previously discussed.

Claims 24 and 28 are rejected under 35 USC §103(a) as being unpatentable over Wilcock et al. (US Application: US 2001/0015756 A1), in further view of Rothmuller et al. (US Application: 2003/0033296 A1), in further view of Takahashi et al. (US Patent: 5,537,528). Applicants traverse this rejection. All these claims depend from allowable independent claims, and are therefore allowable.

Claim 33 is rejected under 35 USC §103(a) as being unpatentable over Wilcock et al. (US Application: US 2001/0015756 A1), in further view of Rothmuller et al. (US Application: 2003/0033296 A1), in further view of Wang et al. (US Patent: 5,802,361). Applicants traverse this rejection. This claim depends from allowable independent Claim 14, and is therefore allowable.

Claim 53 is rejected under 35 USC §103(a) as being unpatentable over Wilcock et al. (US Application: US 2001/0015756 A1), in further view of Rothmuller et al. (US Application: 2003/0033296 A1) and Stubler et al. (US Application: 2002/0188602 A1), in further view of Wang et al. (US Patent: 5,802,361). Applicants traverse this rejection. For the reasons explained above with respect to Claims 1, 7, and 14, Wilcock by itself or in combination with any other reference discloses all the features recited in Claim 53, and therefore Claim 53 is allowable.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

Date: March 15, 2007

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